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February 3, 2025

Hon. Jennifer P. Wilson
U.S. District Court for the Middle District of Pennsylvania

Re: *Pace-O-Matic, Inc. v. Eckert Seamans Cherin & Mellott, LLC*, No. 1:20-cv-00292-JPW (M.D. Pa.) – Reply Regarding Confidentiality Dispute

Dear Judge Wilson:

Plaintiff Pace-O-Matic, Inc. (“POM”) respectfully submits this letter to clarify a portion of its previously filed Opposition to the PSP’s Motion to Quash or for Protective Order, ECF No. 448 (“Opposition”), based on information obtained by POM after the filing of the Opposition.¹ In particular, after the filing of the Opposition, undersigned counsel has become aware that PSP conducted a now-terminated, years-long undercover surveillance operation inside of POM. In early 2019, the FBI and PSP received complaints about alleged criminal conduct, which resulted in an undercover PSP operation being initiated within POM. In late 2019, PSP and Trooper Ryan Kelley of the PSP faked Trooper Kelley’s retirement from PSP. Trooper Kelley then obtained employment with POM as a compliance officer while working undercover for PSP. Trooper Kelley remained in his position as a compliance officer with POM for *over 3 years* while continuing to work undercover for PSP. *See* Grand Jury Presentment No 15 (“the Presentment”) at 4.

No criminal charges were filed against POM as a result of the investigation conducted by PSP and Trooper Kelley. To the contrary, POM was the *victim* of the only criminal charges that arose from the investigation. In particular, the investigation resulted in the charging of a rogue employee, Rick Goodling, who was entering into deals with distributors for his personal benefit in violation of POM’s policies, against POM’s interests, and without POM’s knowledge or consent. *See* the Presentment at 6-9. The Presentment acknowledged that, unlike the other manufacturer’s games about which Goodling was scheming, POM’s games were determined by a court to be legal games of skill and found no wrongdoing whatsoever on the part of POM.

In the Opposition, POM principally argued that the Court should enforce its deposition notice to the PSP as originally written. However, in the alternative, POM identified several potential modifications to the subpoena that the Court might consider. *See* Opposition at 17-18 n.4. Among other potential modifications, POM proposed that the Court might “prohibit[]

¹ Although POM does not seek any relief in this letter, POM’s counsel communicated with PSP’s counsel in writing over the last week and via telephone on February 3, 2025, regarding the issues addressed in this letter. PSP’s counsel raised no objection to the filing of this letter, but did reserve the right to respond as she deemed necessary.

testimony regarding any investigation that has not already resulted in a court proceeding, seizure, or forfeiture.” *Id.* When POM filed its Opposition, no court proceeding was then pending against Rick Goodling. However, as of the date of this letter, a criminal proceeding is now pending against Goodling. POM wishes to clarify that it does not seek testimony regarding the pending case against Goodling.

However, POM continues to seek discovery regarding the origin of the PSP’s investigation of POM. POM believes that certain evidence obtained in this litigation supports the inference that Eckert was the source of these complaints. Eckert has admitted in this lawsuit that the work it did related to POM’s business of “skill games” included “...outreach on behalf of client(s) to regulators, elected officials, government employees, and law enforcement personnel relating to skill game oversight and regulation....” *See* POM’s July 22, 2022 Letter in Response to PSP Discovery Letter, ECF 408, Exhibit 9. As one example, during the same timeframe of the complaints to the PSP and the FBI and the initiation of the undercover investigation against POM, Bob Green, President of Parx Casino, directed defendant Mark Stewart and others to “go on the offensive and get a successful prosecution” regarding “Skill Games.” *See* Opposition, Exhibit 1.

Very truly yours,

HUSCH BLACKWELL LLP

/s/ Michael P. Nolan

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